

Leading
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APR 04 2003

U.S. Army Corps of Engineers
Kansas City District
ATTN: CENWK-PM-CJ
601 E 12th Street
Kansas City, MO 64106

Dear Mr. Ryan:

Re: Final Supplemental Environmental Impact Statement (FSEIS) for the modified Missouri River Fish and Wildlife Mitigation Project, Water Resources Development Act of 1999

The Environmental Protection Agency (EPA) has reviewed the FSEIS for the Missouri River Fish and Wildlife Mitigation Project. Our review is provided pursuant to the National Environmental Policy Act (NEPA) 42 U.S.C. 4231, Council on Environmental Quality (CEQ) regulations 40 C.F.R. Parts 1500-1508, and Section 309 of the Clean Air Act (CAA). The FSEIS was assigned a CEQ number of 030082.

Our review of the Draft SEIS resulted in a rating of LO (Lack of Objections). The rating was based on the overall benefit that the preferred alternative will have on fish and wildlife habitat along the Missouri River. EPA appreciates the refinements made in the FSEIS, and supports the fulfilment of the Congressional acquisition target of 166,750 acres *with* habitat development.

EPA urges the Corps to utilize the Record of Decision (ROD) to convey a clear direction for project implementation to the public, future land managers, and present and future members of the Agency Coordination Team. Since acquisition of land from "willing sellers" will be the mode of project implementation, EPA believes that it is important to dispel arguments of coercion or fear of land condemnation and to promote incentive-based solutions that are within the Corps' capabilities. One such solution is offered in the second response to comments on page E-17. In this response, the Corps indicates that "This may include working towards an agreeable levee realignment that would result in a new levee, which would decrease maintenance costs to the levee district...". This suggestion is consistent with the Corps position on land acquisition mentioned in the January 2003 *Annual Implementation Report* for the original Bank Stabilization and Navigation Project Mitigation, where the Corps' agreed that condemnation authority would not be used. To optimize acquisitions for best results per the Corps' "Real

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Estate Design Memorandum No. 1," EPA recommends that the Corps resume interviews with levee owners and/or sponsors, to complete a 100% inventory to update table 3.5-16 (table in the FSEIS currently represents 346 levee district members and 138.06 miles of levees). A renewed inventory should include assessment of levee condition, current protection level afforded (i.e. 20, 50, 100-year) and an indication of owner/sponsor willingness to consider a beneficial re-alignment.

EPA re-affirms it's commitment to the Agency Coordination Team and looks forward to working towards defining ecological goals and objectives for the lower Missouri River. If you have any questions you can reach me at (913) 551-7805.

Sincerely,

Nicholas Rocha
NEPA Reviewer
Environmental Services Division